

Administrative Order



Administrative Order No.: 4-86

Title: Worthless Checks

Ordered: 4/13/2004

Effective: 4/23/2004

AUTHORITY:

Section 4.02 of the Miami-Dade County Home Rule Charter, as amended, and Section 68.065 of the Florida Statutes.

SUPERSEDES:

This Administrative Order supersedes previous Administrative Order 4-86 ordered July 23, 1991, and effective July 23, 1991.

POLICY:

It is the policy of Miami-Dade County to continue to accept checks from the public, drawn only on United States banks in United States currency with the drawer's name and address imprinted on the checks, for payment of fees, fines and charges, and to invoke any and all available penalties, service fees, service charges, or civil actions when checks are dishonored.

CHECK CONSIDERED CONDITIONAL PAYMENT:

The receipt of a check is considered to be a conditional payment until it is honored by the drawer's bank. If the check fails to clear any business license, permit, or tag. The account for which the payment was made would be delinquent and subject to all late charges and penalties relevant thereto, in addition to the service charges and/or service fees authorized by Sections 68.065 and 125.0105, Florida Statutes, as well as criminal actions, pursuant to Section 832.07, Florida Statutes.

PROCEDURE:

The Bank Reconciliation Unit of the Finance Department forwards all dishonored checks to the corresponding department. Each department that receives such dishonored checks is responsible for their subsequent collection. Only when departments are unable to collect on dishonored checks within 60 days of their receipt shall they forward the checks and all relevant information to the Credit and Collection Section of the Finance Department for collection (except those

departments that are reimbursed for worthless checks by the State of Florida).

RETURNED CHECK JOURNAL:

Each department shall maintain a returned check journal to contain, at a minimum, the maker, check number, date of check, reason tendered, amount and status of the check, and the official County receipt number associated with the check.

SERVICE CHARGE AND/OR SERVICE FEE ASSESSMENT:

In order for Miami-Dade County to recover a portion of the costs for handling dishonored checks, the following shall apply:

1. County departments and divisions that collect taxes, fees, fines, or charges as agents for the State of Florida (Highway Safety and Motor Vehicles; Department of Natural Resources; Department of Revenue; Division of Alcoholic Beverages and Tobacco, Department of Business Regulations; and Game and Fresh Water Fish Commission) may charge the maker of a worthless check a minimum service charge of \$25.00 or 5% of the face amount of the check (whichever is greater), as authorized by Section 68.065, Florida Statutes.
2. County departments and divisions that collect taxes, fees, fines, or charges solely on behalf of the County may charge the maker of a worthless check a minimum service fee of \$25.00 or 5% of the face amount of the check (whichever is greater), pursuant to Section 125.0105, Florida Statutes, in addition to the service charge authorized by Section 68.065, Florida Statutes.

COLLECTION OF SERVICE FEE AND/OR SERVICE CHARGE:

In order to collect the service fee and/or service charge set forth above, the County departments must send out a notice, by certified or registered mail, return receipt requested, stating the following:

"You are hereby notified that check number _____, in the face amount of \$_____, issued by you on date, drawn upon (name of Bank), and payable to (name of payee), has been dishonored. Pursuant to Florida Statute 832.07, you have **SEVEN (7) DAYS** from receipt of this notice to tender the full amount of such check plus a minimum service charge as follows:

- \$25.00 if the face value does not exceed \$50.00;
- \$30.00 if the face value exceeds \$50.00 but does not exceed \$300.00;
- \$40.00 if the face value exceeds \$300.00;
- or an amount of up to 5% of the face amount of the check, whichever is greater.

Therefore, the total amount due at this time is \$_____. Unless this amount is

paid in full within **SEVEN (7) DAYS**, the County may turn over the dishonored check and all other available information relating to this incident to the State Attorney for **CRIMINAL PROSECUTION**.

In addition, pursuant to Florida Statute 68.065, you have **THIRTY (30)** days from receipt of this notice to tender payment in cash for the full amount of such check, plus a minimum service fee as follows:

- \$25.00, if the face value does not exceed \$50.00;
- \$30.00 if the face value exceeds \$50.00 but does not exceed \$300.00;
- \$40.00 if the face value exceeds \$300.00;
- or an amount of up to 5% of the face amount of the check, whichever is greater.

Therefore, the total amount due at this time is \$_____. Unless this amount is paid in full within the 30-day period, the County may file a **CIVIL ACTION** against you for three times the amount of the check, but in no case less than \$50.00, in addition to the payment of the check, plus any court costs, reasonable attorney fees, and any bank fees incurred by the payee in taking the action.

Please make your remittance payable to the BOARD OF COUNTY COMMISSIONERS, and mail it to the above address, ATTN: (Department/ Unit name).

ONLY CASH (IN PERSON), CASHIER'S CHECK OR A MONEY ORDER WILL BE ACCEPTABLE. PLEASE RETURN A COPY OF THIS LETTER WITH YOUR REMITTANCE.

CRIMINAL ACTION:

County departments and divisions that may wish to file criminal charges against the maker of a worthless check must add the following language to the foregoing notice, pursuant to Florida Statute 832.07:

"Additionally, if the face amount of the check plus minimum service charge of \$25.00 (or 5%), totaling \$_____, have not been paid in full in cash within seven (7) days from receipt of this notice, the dishonored check and all other available information relating to this incident may be turned over to the State Attorney for criminal prosecution."

REPLACEMENT PAYMENT FOR DISHONORED CHECK:

Departments that receive a check not honored by the drawer's bank will require reimbursement to the County, plus all associated penalties, service charges and/or service fees in the form of a cashier's or certified check, money order, or cash.

SUBSTITUTION OF CHECKS FOR CASH:

Employees shall not substitute any checks received for cash. In addition, no checks are to be cashed at any County facility.

REFUND FOR REFUNDABLE CHECK DEPOSITS:

No refunds shall be made for refundable check deposits until at least 15 working days after the deposit date.

This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

George M. Burgess

County Manager